



Sen. Kimberly A. Lightford

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LRB094 11482 LCB 44908 a

1 AMENDMENT TO SENATE BILL 2094

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2094 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Military Code of Illinois is amended by  
5 adding Section 22-10 as follows:

6 (20 ILCS 1805/22-10 new)

7 Sec. 22-10. Whenever the Adjutant General is notified by  
8 the Child and Spouse Support Unit of the Illinois Department of  
9 Public Aid that a member of the Illinois National Guard  
10 obtained relief under the Child Support Military Modification  
11 program, pursuant to Section 10-3.1 of the Illinois Public Aid  
12 Code, the Adjutant General shall notify the Child and Spouse  
13 Support Unit when that member is released from active military  
14 duty within 21 days of the release.

15 Section 10. The Illinois Public Aid Code is amended by  
16 changing Sections 10-1 and 10-3.1 as follows:

17 (305 ILCS 5/10-1) (from Ch. 23, par. 10-1)

18 Sec. 10-1. Declaration of Public Policy - Persons Eligible  
19 for Child Support Enforcement Services - Fees for  
20 Non-Applicants and Non-Recipients.) It is the intent of this  
21 Code that the financial aid and social welfare services herein  
22 provided supplement rather than supplant the primary and

1 continuing obligation of the family unit for self-support to  
2 the fullest extent permitted by the resources available to it.  
3 This primary and continuing obligation applies whether the  
4 family unit of parents and children or of husband and wife  
5 remains intact and resides in a common household or whether the  
6 unit has been broken by absence of one or more members of the  
7 unit. The obligation of the family unit is particularly  
8 applicable when a member is in necessitous circumstances and  
9 lacks the means of a livelihood compatible with health and  
10 well-being.

11 It is the purpose of this Article to provide for locating  
12 an absent parent or spouse, for determining his financial  
13 circumstances, and for enforcing his legal obligation of  
14 support, if he is able to furnish support, in whole or in part.  
15 The Illinois Department of Public Aid shall give priority to  
16 establishing, enforcing and collecting the current support  
17 obligation, and then to past due support owed to the family  
18 unit, except with respect to collections effected through the  
19 intercept programs provided for in this Article.

20 The child support enforcement services provided hereunder  
21 shall be furnished dependents of an absent parent or spouse who  
22 are applicants for or recipients of financial aid under this  
23 Code. It is not, however, a condition of eligibility for  
24 financial aid that there be no responsible relatives who are  
25 reasonably able to provide support. Nor, except as provided in  
26 Sections 4-1.7 and 10-8, shall the existence of such relatives  
27 or their payment of support contributions disqualify a needy  
28 person for financial aid.

29 By accepting financial aid under this Code, a spouse or a  
30 parent or other person having custody of a child shall be  
31 deemed to have made assignment to the Illinois Department for  
32 aid under Articles III, IV, V and VII or to a local  
33 governmental unit for aid under Article VI of any and all  
34 rights, title, and interest in any support obligation up to the

1 amount of financial aid provided. The rights to support  
2 assigned to the Illinois Department of Public Aid or local  
3 governmental unit shall constitute an obligation owed the State  
4 or local governmental unit by the person who is responsible for  
5 providing the support, and shall be collectible under all  
6 applicable processes.

7 The Illinois Department of Public Aid shall also furnish  
8 the child support enforcement services established under this  
9 Article in behalf of persons who are not applicants for or  
10 recipients of financial aid under this Code in accordance with  
11 the requirements of Title IV, Part D of the Social Security  
12 Act. The Department may establish a schedule of reasonable  
13 fees, to be paid for the services provided and may deduct a  
14 collection fee, not to exceed 10% of the amount collected, from  
15 such collection. The Illinois Department of Public Aid shall  
16 cause to be published and distributed publications reasonably  
17 calculated to inform the public that individuals who are not  
18 recipients of or applicants for public aid under this Code are  
19 eligible for the child support enforcement services under this  
20 Article X. The Illinois Department shall also cause to be  
21 published and distributed a publication reasonably calculated  
22 to inform members of the National Guard and the Reserves of the  
23 United States Armed Forces of the CSMM program established in  
24 Section 10-3.1 of this Act. Such publications shall set forth  
25 an explanation, in plain language, that the child support  
26 enforcement services program is independent of any public aid  
27 program under the Code and that the receiving of child support  
28 enforcement services in no way implies that the person  
29 receiving such services is receiving public aid.

30 (Source: P.A. 92-590, eff. 7-1-02.)

31 (305 ILCS 5/10-3.1) (from Ch. 23, par. 10-3.1)

32 Sec. 10-3.1. Child and Spouse Support Unit. The Illinois  
33 Department shall establish within its administrative staff a

1 Child and Spouse Support Unit to search for and locate absent  
2 parents and spouses liable for the support of persons resident  
3 in this State and to exercise the support enforcement powers  
4 and responsibilities assigned the Department by this Article.  
5 The unit shall cooperate with all law enforcement officials in  
6 this State and with the authorities of other States in locating  
7 persons responsible for the support of persons resident in  
8 other States and shall invite the cooperation of these  
9 authorities in the performance of its duties.

10 In addition to other duties assigned the Child and Spouse  
11 Support Unit by this Article, the Unit may refer to the  
12 Attorney General or units of local government with the approval  
13 of the Attorney General, any actions under this Section,  
14 Section ~~Sections~~ 10-10, and Section 10-15 for judicial  
15 enforcement or modification of the support liability. The Child  
16 and Spouse Support Unit shall act for the Department in  
17 referring to the Attorney General support matters requiring  
18 judicial enforcement under other laws. If requested by the  
19 Attorney General to so act, as provided in Section 12-16,  
20 attorneys of the Unit may assist the Attorney General or  
21 themselves institute actions in behalf of the Illinois  
22 Department under the Revised Uniform Reciprocal Enforcement of  
23 Support Act; under the Illinois Parentage Act of 1984; under  
24 the Non-Support of Spouse and Children Act; under the  
25 Non-Support Punishment Act; or under any other law, State or  
26 Federal, providing for support of a spouse or dependent child.

27 The Illinois Department shall also have the authority to  
28 enter into agreements with local governmental units or  
29 individuals, with the approval of the Attorney General, for the  
30 collection of moneys owing because of the failure of a parent  
31 to make child support payments for any child receiving services  
32 under this Article. Such agreements may be on a contingent fee  
33 basis, but such contingent fee shall not exceed 25% of the  
34 total amount collected.

1           An attorney who provides representation pursuant to this  
2 Section shall represent the Illinois Department exclusively.  
3 Regardless of the designation of the plaintiff in an action  
4 brought pursuant to this Section, an attorney-client  
5 relationship does not exist for purposes of that action between  
6 that attorney and (i) an applicant for or recipient of child  
7 support enforcement services or (ii) any other party to the  
8 action other than the Illinois Department. Nothing in this  
9 Section shall be construed to modify any power or duty  
10 (including a duty to maintain confidentiality) of the Child and  
11 Spouse Support Unit or the Illinois Department otherwise  
12 provided by law.

13           The Illinois Department may also enter into agreements with  
14 local governmental units for the Child and Spouse Support Unit  
15 to exercise the investigative and enforcement powers  
16 designated in this Article, including the issuance of  
17 administrative orders under Section 10-11, in locating  
18 responsible relatives and obtaining support for persons  
19 applying for or receiving aid under Article VI. Payments for  
20 defrayment of administrative costs and support payments  
21 obtained shall be deposited into the DHS Recoveries Trust Fund.  
22 Support payments shall be paid over to the General Assistance  
23 Fund of the local governmental unit at such time or times as  
24 the agreement may specify.

25           With respect to those cases in which it has support  
26 enforcement powers and responsibilities under this Article,  
27 the Illinois Department may provide by rule for periodic or  
28 other review of each administrative and court order for support  
29 to determine whether a modification of the order should be  
30 sought. The Illinois Department shall provide for and conduct  
31 such review in accordance with any applicable federal law and  
32 regulation.

33           As part of its process for review of orders for support,  
34 the Illinois Department, through written notice, may require

1 the responsible relative to disclose his or her Social Security  
2 Number and past and present information concerning the  
3 relative's address, employment, gross wages, deductions from  
4 gross wages, net wages, bonuses, commissions, number of  
5 dependent exemptions claimed, individual and dependent health  
6 insurance coverage, and any other information necessary to  
7 determine the relative's ability to provide support in a case  
8 receiving child support enforcement services under this  
9 Article X.

10 The Illinois Department may send a written request for the  
11 same information to the relative's employer. The employer shall  
12 respond to the request for information within 15 days after the  
13 date the employer receives the request. If the employer  
14 willfully fails to fully respond within the 15-day period, the  
15 employer shall pay a penalty of \$100 for each day that the  
16 response is not provided to the Illinois Department after the  
17 15-day period has expired. The penalty may be collected in a  
18 civil action which may be brought against the employer in favor  
19 of the Illinois Department.

20 A written request for information sent to an employer  
21 pursuant to this Section shall consist of (i) a citation of  
22 this Section as the statutory authority for the request and for  
23 the employer's obligation to provide the requested  
24 information, (ii) a returnable form setting forth the  
25 employer's name and address and listing the name of the  
26 employee with respect to whom information is requested, and  
27 (iii) a citation of this Section as the statutory authority  
28 authorizing the employer to withhold a fee of up to \$20 from  
29 the wages or income to be paid to each responsible relative for  
30 providing the information to the Illinois Department within the  
31 15-day period. If the employer is withholding support payments  
32 from the responsible relative's income pursuant to an order for  
33 withholding, the employer may withhold the fee provided for in  
34 this Section only after withholding support as required under

1 the order. Any amounts withheld from the responsible relative's  
2 income for payment of support and the fee provided for in this  
3 Section shall not be in excess of the amounts permitted under  
4 the federal Consumer Credit Protection Act.

5 In a case receiving child support enforcement services, the  
6 Illinois Department may request and obtain information from a  
7 particular employer under this Section no more than once in any  
8 12-month period, unless the information is necessary to conduct  
9 a review of a court or administrative order for support at the  
10 request of the person receiving child support enforcement  
11 services.

12 The Illinois Department shall establish and maintain an  
13 administrative unit to receive and transmit to the Child and  
14 Spouse Support Unit information supplied by persons applying  
15 for or receiving child support enforcement services under  
16 Section 10-1. In addition, the Illinois Department shall  
17 address and respond to any alleged deficiencies that persons  
18 receiving or applying for services from the Child and Spouse  
19 Support Unit may identify concerning the Child and Spouse  
20 Support Unit's provision of child support enforcement  
21 services. Within 60 days after an action or failure to act by  
22 the Child and Spouse Support Unit that affects his or her case,  
23 a recipient of or applicant for child support enforcement  
24 services under Article X of this Code may request an  
25 explanation of the Unit's handling of the case. At the  
26 requestor's option, the explanation may be provided either  
27 orally in an interview, in writing, or both. If the Illinois  
28 Department fails to respond to the request for an explanation  
29 or fails to respond in a manner satisfactory to the applicant  
30 or recipient within 30 days from the date of the request for an  
31 explanation, the applicant or recipient may request a  
32 conference for further review of the matter by the Office of  
33 the Administrator of the Child and Spouse Support Unit. A  
34 request for a conference may be submitted at any time within 60

1 days after the explanation has been provided by the Child and  
2 Spouse Support Unit or within 60 days after the time for  
3 providing the explanation has expired.

4 The applicant or recipient may request a conference  
5 concerning any decision denying or terminating child support  
6 enforcement services under Article X of this Code, and the  
7 applicant or recipient may also request a conference concerning  
8 the Unit's failure to provide services or the provision of  
9 services in an amount or manner that is considered inadequate.  
10 For purposes of this Section, the Child and Spouse Support Unit  
11 includes all local governmental units or individuals with whom  
12 the Illinois Department has contracted under Section 10-3.1.

13 Upon receipt of a timely request for a conference, the  
14 Office of the Administrator shall review the case. The  
15 applicant or recipient requesting the conference shall be  
16 entitled, at his or her option, to appear in person or to  
17 participate in the conference by telephone. The applicant or  
18 recipient requesting the conference shall be entitled to be  
19 represented and to be afforded a reasonable opportunity to  
20 review the Illinois Department's file before or at the  
21 conference. At the conference, the applicant or recipient  
22 requesting the conference shall be afforded an opportunity to  
23 present all relevant matters in support of his or her claim.  
24 Conferences shall be without cost to the applicant or recipient  
25 requesting the conference and shall be conducted by a  
26 representative of the Child or Spouse Support Unit who did not  
27 participate in the action or inaction being reviewed.

28 The Office of the Administrator shall conduct a conference  
29 and inform all interested parties, in writing, of the results  
30 of the conference within 60 days from the date of filing of the  
31 request for a conference.

32 In addition to its other powers and responsibilities  
33 established by this Article, the Child and Spouse Support Unit  
34 shall conduct an annual assessment of each institution's

1 program for institution based paternity establishment under  
2 Section 12 of the Vital Records Act.

3 The Child and Spouse Support Unit shall establish a program  
4 to modify the child support paid by any member of the National  
5 Guard or Reserves of the United States Armed Forces called up  
6 to military active duty for more than 30 continuous days. This  
7 program shall be known as the Child Support Military  
8 Modification program or CSMM. The CSMM program shall be  
9 available regardless of whether the custodial parent of the  
10 child for whose benefit the support is paid is an applicant or  
11 recipient of financial aid under this Code in accordance with  
12 the requirements of Title IV, Part D of the Social Security  
13 Act. The Child and Spouse Support Unit shall establish an  
14 application for members of the National Guard and Reserves who  
15 wish to avail themselves of the CSMM program. The application  
16 shall consist of an instruction sheet and one or more forms  
17 that the applicant must complete. The forms may include a form  
18 that the applicant must sign authorizing the Child and Spouse  
19 Support Unit to obtain income and status information from the  
20 applicant's military employer. The application shall be made  
21 available on the Internet, at all military Mobilization  
22 Centers, and elsewhere at the discretion of the Child and  
23 Spouse Support Unit. Any member of the National Guard or  
24 Reserves may avail himself or herself of the CSMM program by  
25 filling out the CSMM application and submitting it to the Child  
26 and Spouse Support Unit or to his or her Mobilization Center  
27 Officer-in-Charge, who shall forward the application to the  
28 Child and Spouse Support Unit.

29 If the Child and Spouse Support Unit determines the  
30 applicant's military income will vary from the applicant's  
31 civilian income in an amount that would support a modification  
32 under Section 510 of the Illinois Marriage and Dissolution of  
33 Marriage Act and the Illinois Department's rules on review and  
34 adjustment of child support orders and the applicant is paying

1 court-ordered child support, the Child and Spouse Support Unit  
2 shall seek a temporary modification in the child support paid  
3 by the applicant by filing a motion on behalf of the Department  
4 in the court in which the child support order was entered. The  
5 motion shall seek to modify the child support paid by the  
6 applicant in accordance with the guidelines in Section 505 of  
7 the Illinois Marriage and Dissolution of Marriage Act and other  
8 applicable Acts.

9 If the Child and Spouse Support Unit determines the  
10 applicant's military income will vary from the applicant's  
11 civilian income in an amount that would support a modification  
12 under Section 510 of the Illinois Marriage and Dissolution of  
13 Marriage Act and the Illinois Department's rules on review and  
14 adjustment of child support orders and the applicant is paying  
15 child support under an Administrative Order entered pursuant to  
16 this Article X, the Child and Spouse Support Unit shall  
17 temporarily modify the child support paid by the applicant in  
18 accordance with the guidelines in Section 505 of the Illinois  
19 Marriage and Dissolution of Marriage Act and any guidelines  
20 established by the Illinois Department, pursuant to Section  
21 10-3 of this Act, and afford the parties an opportunity for a  
22 hearing thereon pursuant to Sections 10-12 and 10-12.1 of this  
23 Act and rules promulgated under the Act.

24 The Child and Spouse Support Unit must notify the Adjunct  
25 General whenever any member of the Illinois National Guard  
26 obtains relief under the CSMM program. Any person who receives  
27 relief under the CSMM program must notify the Child and Spouse  
28 Support Unit of his or her release from active military duty  
29 within 21 days of the release in a manner prescribed by the  
30 Department. Whenever the Child and Spouse Unit learns that a  
31 person who received relief under the CSMM program is released  
32 from active military service, it shall promptly notify the  
33 person receiving child support of the release and afford that  
34 person the opportunity to request a review and adjustment of

1 the child support order.

2 The Department shall promulgate any rules necessary for the  
3 Child and Spouse Support Unit to carry out the Child Support  
4 Military Modification program.

5 (Source: P.A. 91-24, eff. 7-1-99; 91-613, eff. 10-1-99; 92-16,  
6 eff. 6-28-01; 92-590, eff. 7-1-02.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.".